A Guide for Hospitals and Health Care Providers

# Perinatal Substance Use

Virginia Legal Requirements and Health Care Practice Implications

**As a health care provider, you have an important role in reducing substance use during pregnancy and postpartum.**

Pregnant women who use alcohol, tobacco, or illicit drugs risk their infant's health and development. Abuse of prescription or over-the-counter medications can also create health risks.

As a health care provider, you have an important role in reducing substance use during pregnancy and postpartum. You can improve outcomes by routinely providing:

- regular prenatal care
- education on:
  - nutrition
  - prevention of STDs and HIV
  - the effects of substance use on fetal development
- substance use screening
- brief intervention
- referral for substance abuse evaluation/treatment.

To promote healthy maternal and infant outcomes, the *Code of Virginia* sets forth screening and reporting requirements for health care providers and hospitals. This pamphlet discusses Virginia's legal requirements and the implications for practice.

## HIV Screening in Prenatal Care

### §54.1-2403.01 of the *Code of Virginia*

- Licensed practitioners, as a routine component of prenatal care, shall advise all pregnant patients of the value of testing for Human Immunodeficiency Viruses (HIV) and request consent to test.

- Practitioners shall counsel pregnant women with HIV positive test results on the dangers to the fetus and the advisability of receiving treatment in accordance with current Centers for Disease Control recommendations.

Women have the right to refuse consent for testing and recommended treatment.

### Practice

Zidovudine (ZDV) in combination with other antiretroviral medications has been shown to significantly reduce the risk of perinatal HIV transmission by 70%.

**Research indicates that polysubstance use is the norm and that many women use drugs in combination with alcohol and tobacco.**



## Substance Use Screening in Prenatal Care

### §54.1-2403.1 of the *Code of Virginia*

- Licensed practitioners shall, as a routine component of prenatal care, establish and implement a *medical history protocol to screen all pregnant patients for substance abuse* to determine the need for further evaluation.
- Practitioners shall counsel all pregnant women with positive medical history screens and/or substance evaluations on the potential for poor birth outcomes and appropriateness of treatment.
- The results of the medical history screen and/or substance abuse evaluation shall not be admissible in any criminal proceeding.

### Practice

Substance use by pregnant women occurs in all ethnic, geographic, and socioeconomic groups. Research indicates that polysubstance use is the norm and that many women use drugs in combination with alcohol and tobacco.

Most substance users have no signs on physical examination.

### Substance Use History

During pregnancy, women are often motivated to change risky behaviors. Routine gynecologic and obstetric visits provide excellent opportunities for patient education and substance use screening.

Substance use screening can be easily incorporated into a routine medical history and supplemented by drug toxicology when maternal risk indicators are present. Screening should occur at least once per trimester since patterns of use may change over time.

A substance use history screening should include questions concerning:

- the frequency and amount of alcohol consumption prior to and during pregnancy

- the frequency and amounts of over-the-counter, prescription, and "street" drugs used prior to and during pregnancy

*Patterns of use prior to conception are risk indicators for prenatal and postpartum use.*

- the effects of substance use on life areas such as relationships, employment, legal, etc.
- parent and partner substance use
- previous referrals for substance use evaluation/treatment
- previous substance use treatment or efforts to seek treatment.

Screening tools such as the CAGE, 4P's, TWEAK, or T-ACE can be easily integrated into a medical history and quickly administered.

If a urine or blood toxicology screen is medically indicated during the prenatal period, informed consent should be obtained.

### Patient Discussion

Substance use discussion needs to occur within a health context to lesson the stigma associated with the topic and convey concern for the health of the mother and baby. A supportive, non-confrontational discussion includes:

- the health care benefits of abstinence
- maternal health, obstetrical, and neonatal complications that may result from continued use
- evaluation and treatment options
- encouragement to accept a substance use assessment referral.

Though abstinence is the goal, any steps towards reducing use and/or related risk factors e.g. poor nutrition, exposure to STDs, etc. should be encouraged to improve birth outcomes. Substance use harm reduction approaches can include decreasing use, interspersing use with periods of abstinence, and avoiding drug using friends.

Most women want what is best for their newborns. Continued use during pregnancy may be due to habituation or addiction rather than a lack of information or concern regarding the effects of substance use. A woman who continues to use during pregnancy, despite your interventions, should be referred for a substance abuse treatment assessment.

Substance use disorders are chronic, treatable medical diseases. Education, evaluation, and treatment services are available through public and private providers.

Public substance abuse services are provided by Virginia's Community Services Boards (CSBs). Pregnant, substance using women receive treatment priority at CSBs and are offered services within 48 hours of their request. Check with the CSB in your community to learn more about substance abuse and available services.

**Interventions to reduce adverse outcomes and promote healthy home environments are critical to the well-being of substance exposed children.**



## Physician Referral of Substance Exposed Newborns

### §63.2-1509 of the *Code of Virginia*

- Attending physicians shall report, to local social services departments or the Child Abuse and Neglect Hotline, newborns medically diagnosed for exposure to alcohol or non-prescription drugs during pregnancy.

### Practice

In utero substance exposure can cause or contribute to premature birth, low birth weight, increased risk of infant mortality, neurobehavioral, and developmental complications. Post-natal environmental factors associated with maternal substance use such as poverty, neglect, unstable or stressful home environments present additional risks for these children.

Interventions to reduce adverse outcomes and promote healthy home environments are critical to the well-being of substance exposed children.

### Identification

Identification of substance exposed newborns is determined by clinical indicators that include maternal and infant presentation at birth, substance use and medical histories, and/or toxicology results.

Attending physicians are required to *immediately* file a report with child protective services if any one of the following occurs:

- a urine or blood toxicology conducted on the mother or infant, within 48 hours of birth, is positive
- a medical finding is made, within 48 hours of birth, of newborn dependency or withdrawal symptoms
- an illness, disease, or condition attributable to in utero substance exposure is diagnosed within seven days of birth
- Fetal Alcohol Syndrome (FAS) is diagnosed within seven days of birth.

## Drug Testing

Drug testing is useful for diagnostic and treatment purposes but is not legally required to make a report to child protective services. Drug testing can include:

- maternal blood or urine testing or hair analysis
- newborn urine or meconium testing.

Laboratories routinely do a gas chromatography with mass spectrometry or other confirmatory test whenever they obtain a positive finding on a urine, meconium, or hair sample.

Hospitals should have defined policies for identifying substance using, intrapartum women and their newborns. Policies should include:

- specific, evidence-based criteria for testing the mother and/or her newborn
- expectations regarding the timing of tests, test types, and parental consent.

Some hospitals request consent for testing while others assume it within the patient's general consent for care. To learn your hospital's policy, check with their Risk Management Office.

## Records Release

When reporting substance exposed newborns, health care providers are required by the *Code of Virginia* to release, upon request, medical records that document the basis of the report of suspected child abuse or neglect.

Child abuse/neglect information release to child protective services agencies is also permitted by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and federal Confidentiality of Alcohol and Drug Abuse Patient Information Regulations. (CFR 42 Part 2)

## Reporting Liability

Health care providers are immune from civil and criminal liability when making good faith reports to child protective services. Failure to report could result in criminal liability punishable as a misdemeanor with an imposed fine.

## Child Protective Services Response

Local social services departments are required to immediately respond to all valid reports and to provide feedback to those who reported.

Child Protective Services (CPS) workers in local social services departments will conduct a child safety and family services needs assessment; develop a safety plan with the family, when necessary; and arrange for services to ensure child health and safety.

The CPS worker will:

- observe the child
- interview the parents
- observe the child's home
- check for previous reports on the family
- interview siblings
- contact allied professionals and others for information about the family.

The goal of CPS intervention is to help families ensure the safety and well-being of their children.

If the child's health or safety is compromised, the CPS worker may recommend temporary placement or consider petitioning the court to require needed services.

**Postpartum, substance using women and their newborns have multiple health care, treatment, safety, and environmental needs.**



## Hospital Discharge Planning for Substance Using Postpartum Women

### §32.1-127 of the *Code of Virginia*

- Hospitals shall implement protocols requiring written discharge plans for substance abusing, postpartum women and their infants.
- The discharge plan must be discussed with the patient and appropriate referrals made and documented.
- The discharge plan shall involve, to the extent possible, the child's father and members of the extended family who may participate in follow-up care.
- Hospitals shall immediately notify the local Community Services Board (CSB), on behalf of the substance abusing, postpartum woman, to appoint a discharge plan manager.

### Practice

### Discharge Plan

Postpartum, substance using women and their newborns have multiple health care, treatment, safety, and environmental needs. Their hospital discharge plans should include:

- information and medical directives regarding potential postpartum complications and, as appropriate, indicators of substance use withdrawal
- a home evaluation and safety assessment by child protective services
- a follow-up appointment for pediatric care within 2-4 weeks
- a referral for developmental assessment and early intervention services for the infant
- a referral of the mother to the local Community Service Board (CSB) for substance use assessment
- a follow-up appointment for the mother for postpartum gynecologic care and family planning.

Patient follow-through on substance use and health care referrals is voluntary. Timely, coordinated outreach services provided by the health care provider, the CSB, and child protective services can provide incentives and the necessary leverage to motivate the mother to follow-through with discharge planning recommendations. Interagency protocols are recommended to facilitate service coordination.

### Confidentiality of Substance Abuse Patient Information (CFR 42 Part 2)

Federal regulations protect the confidentiality of individuals who seek treatment for substance use disorders. Information that reveals a person is receiving, has received, or has applied for services for a substance use disorder cannot be released or redisclosed without a valid written release from the patient.

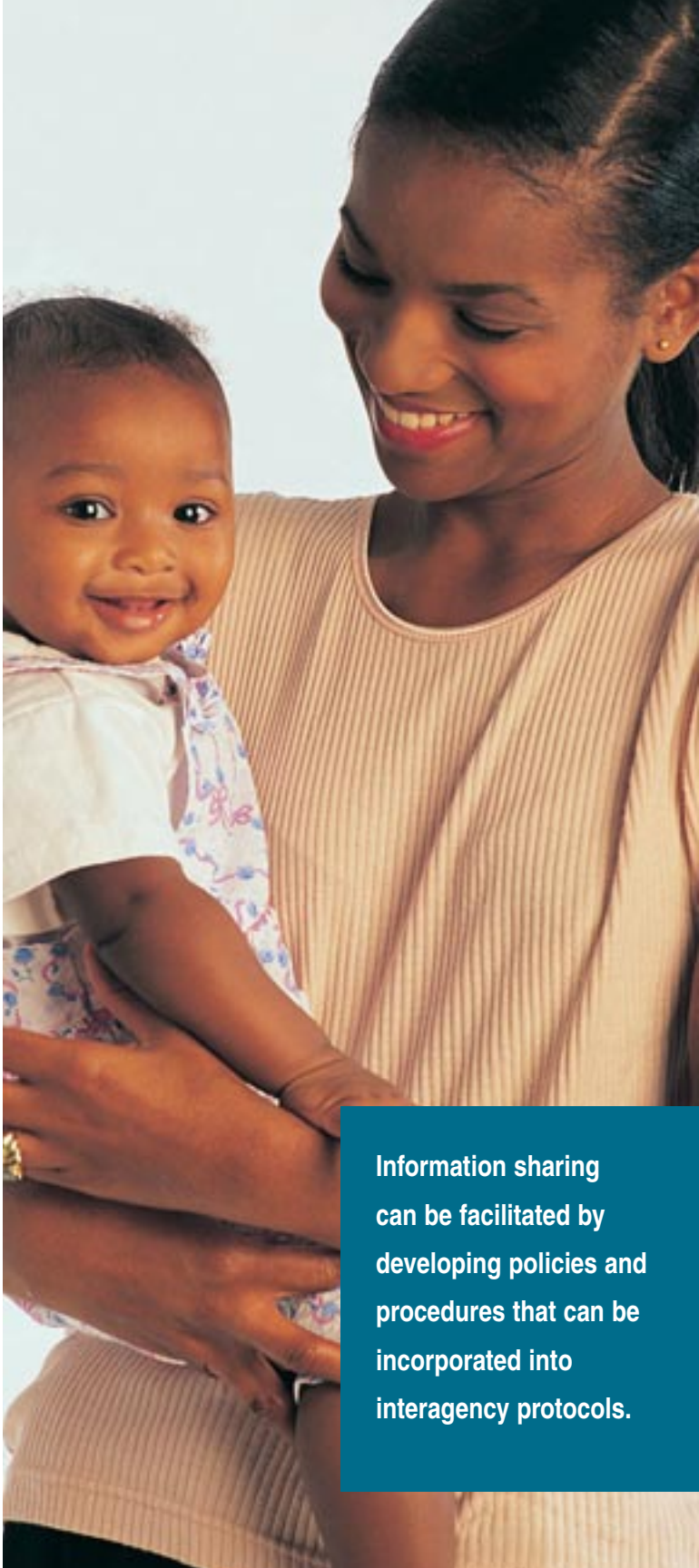
A general consent form or medical release form is not acceptable. To be valid, a written consent form for the release of confidential information must specify:

- the patient's name
- the purpose of the disclosure
- the name of the person/organization that will receive the information
- the information to be released
- the patient's right to revoke consent at any time, except to the extent that action taken is irrevocable
- the patient's right to revoke consent verbally or in writing
- the date or condition when consent expires
- the date signed
- the patient's signature.

The information disclosed:

- must contain a written statement prohibiting redisclosure
- may not be used in a criminal investigation or prosecution.

Information sharing can be facilitated by developing policies and procedures that can be incorporated into interagency protocols.



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## Resources

**Child Abuse and Neglect Hotline**
1-800-552-7096

**Virginia Department of Health**
**Division of Women and Infant's Health**
(804) 786-5916

**Substance Abuse Treatment Services,**
**CSB contacts, and 42 CFR:**
Department of Mental Health, Mental Retardation,
and Substance Abuse Services
(804) 786-3906

## Internet Resources

American College of Obstetricians and Gynecologists @www.acog.com

American Academy of Pediatrics @www.aap.org

National Organization on Fetal Alcohol Syndrome (NOFAS) @www.nofas.org

American Society of Addiction Medicine @www.asam.org

National Clearinghouse for Drug and Alcohol Information @www.health.org

Physician Leadership on National Drug Policy @www.plndp.org

National Institute for Drug Abuse @www.nida.nih.gov

Center for Substance Abuse Treatment @www.samhsa.gov

Mid-Atlantic Technology Transfer Center @www.mid-attc.org

The persons portrayed in this brochure are models.
Photos are intended for illustrative purposes only.

Virginia Department of Health

Virginia Department of Social Services

Virginia Department of Mental Health, Mental Retardation, and Substance Abuse Services

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